

ASSEMBLY BILL

No. 1697

Introduced by Assembly Member Hall

February 1, 2010

An act to amend Sections 69922 and 69926 of the Government Code, and to amend Section 1465.8 of the Penal Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1697, as introduced, Hall. Court security.

(1) The Superior Court Law Enforcement Act of 2002 authorizes the presiding judge of each superior court to contract with the sheriff or marshal for the necessary level of law enforcement services in the courts. The act requires a sheriff to attend all superior court held within his or her county whenever required, but authorizes the court to use court attendants in courtrooms hearing noncriminal, nondelinquency actions. The act requires the superior court and the sheriff or marshal to enter into a memorandum of understanding specifying the agreed upon level of court security services, and their cost and terms of payment. The act provides that the cost of services specified in the memorandum of understanding shall be based on the estimated average cost of salary and benefits for equivalent personnel classifications in that county, not including overtime pay. The act provides for a working group on court security, as specified.

This bill would provide that any person providing superior court law enforcement functions, as defined, shall be in the employ and under the direction of the county sheriff. The bill would provide that the cost of services specified in the memorandum of understanding shall be based on the actual county-by-county allocation for an unspecified fiscal year,

as determined by the working group on court security established pursuant to the act.

(2) Existing law imposes a fee of \$30 upon every conviction for a criminal offense, other than parking offenses, for funding of court security until July 1, 2011, and a court security fee of \$20 thereafter. Existing law provides that proceeds of the court security fee be transferred monthly from the counties for deposit in the Trial Court Trust Fund to fund trial court operations, including those marshals and sheriffs as the court deems necessary for court operations.

This bill would continue the increased court security fee until July 1, 2016, and would require the Administrative Office of the Courts, commencing July 1, 2010, and on each July 1 thereafter, to adjust the court security fee, as specified. The bill would require the Administrative Office of the Courts to publish the current dollar amount of the court security fee on its Internet Web site. The bill would require proceeds of the court security fee to be deposited in a separate account of the Trial Court Trust Fund for the sole purpose of funding sheriffs and marshals for superior court security.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) Section 69926 of the Government Code provides that court
- 4 security for superior courts shall be provided by the county sheriff
- 5 or marshal.
- 6 (b) Court security services are provided by sheriffs and marshals
- 7 for a number of public safety reasons, including their extensive
- 8 peace officer training, jurisdiction over the inmates in local jails,
- 9 including the transport of inmates to and from the jail to court
- 10 proceedings, and sheriff's and marshal's personnel in the courts
- 11 serving as bailiffs. Sheriffs and marshals have the longstanding
- 12 proven expertise and training to provide this much needed and
- 13 necessary function in California.
- 14 (c) The sheriffs and marshals of the State of California are
- 15 committed to continuing to provide the highest level service and
- 16 security in California's courtrooms.

(d) Instability in court security funding and a cumbersome funding mechanism create burdens on the state, on local courts, and on county sheriffs and marshals. State funding continues to be impacted by salary and retirement adjustments at the local level without any real state input into growth in those areas. County sheriffs and marshals and local courts struggle with continual lack of certainty in funding and complications from the manner in which court security funding is administered and confusion in the application of existing law.

(e) The provision of court security services is not broken. The cumbersome process by which court security is funded needs to be simplified to create maximum efficiencies for court security services and cost containment for the state.

SEC. 2. Section 69922 of the Government Code is amended to read:

69922. (a) Except as otherwise provided by law, whenever required, the sheriff shall attend all superior court held within his or her county. A sheriff shall attend a noncriminal, nondelinquency action, however, only if the presiding judge or his or her designee makes a determination that the attendance of the sheriff at that action is necessary for reasons of public safety. ~~The~~

(b) ~~The~~ court may use court attendants in courtrooms hearing those noncriminal, nondelinquency actions. Notwithstanding any other ~~provision of~~ law, the presiding judge or his or her designee may provide that a court attendant take charge of a jury, as provided in Sections 613 and 614 of the Code of Civil Procedure. ~~The~~

(c) *Any person providing superior court law enforcement functions, as defined in subdivision (e) of Section 69921, shall be in the employ and under the direction of the county sheriff.*

(d) *The sheriff shall obey all lawful orders and directions of all courts held within his or her county.*

SEC. 3. Section 69926 of the Government Code is amended to read:

69926. (a) This section applies to the superior court and the sheriff or marshal's department in those counties in which either of the following apply:

(1) The sheriff's department was otherwise required by law to provide court security services on and after July 1, 1998.

(2) Court security was provided by the marshal's office on and after July 1, 1998, the marshal's office was subsequently abolished

1 and succeeded by the sheriff's department, and the successor
2 sheriff's department is required to provide court security services
3 as successor to the marshal.

4 (b) The superior court and the sheriff or marshal shall enter into
5 an annual or multiyear memorandum of understanding specifying
6 the agreed upon level of court security services, cost of services,
7 and terms of payment. The cost of services specified in the
8 memorandum of understanding shall be based on the ~~estimated~~
9 ~~average cost of salary and benefits for equivalent personnel~~
10 ~~classifications in that county, not including overtime pay. In~~
11 ~~calculating the average cost of benefits, only those benefits listed~~
12 ~~in paragraph (6) of subdivision (a) of Section 69927 shall be~~
13 ~~included. For purposes of this article, "benefits" excludes any item~~
14 ~~not expressly listed in this subdivision, including, but not limited~~
15 ~~to, any costs associated with retiree health benefits. As used in this~~
16 ~~subdivision, retiree health benefits includes, but is not limited to,~~
17 ~~the current cost of health benefits for already retired personnel and~~
18 ~~any amount to cover the costs of future retiree health benefits for~~
19 ~~either currently employed or already retired personnel actual~~
20 ~~county-by-county allocation for the ____ fiscal year, as determined~~
21 ~~by the working group established pursuant to paragraph (1) of~~
22 ~~subdivision (a) of Section 69927.~~

23 (c) The sheriff or marshal shall provide information as identified
24 in the contract law enforcement template by April 30 of each year
25 to the superior court in that county, specifying the nature, extent,
26 and basis of the costs, including negotiated or projected salary
27 increases of court law enforcement services that the sheriff
28 proposes to include in the budget of the court security program for
29 the following state budget year. Actual court security allocations
30 shall be subject to the approval of the Judicial Council and the
31 funding provided by the Legislature. It is the intent of the
32 Legislature that proposed court security expenditures submitted
33 by the Judicial Council to the Department of Finance for inclusion
34 in the Governor's Budget shall be as defined in the contract law
35 enforcement template.

36 (d) If the superior court and the sheriff or marshal are unwilling
37 or unable to enter into an agreement pursuant to this section on or
38 before August 1 of any fiscal year, the court or sheriff or marshal
39 may request the continuation of negotiations between the superior
40 court and the sheriff or marshal for a period of 45 days with

1 mediation assistance, during which time the previous law
2 enforcement services agreement shall remain in effect. Mutually
3 agreed upon mediation assistance shall be determined by the
4 Administrative Director of the Courts and the president of the
5 California State Sheriffs' Association.

6 SEC. 4. Section 1465.8 of the Penal Code, as amended by
7 Section 29 of Chapter 22 of the 4th Extraordinary Session of the
8 Statutes of 2009, is amended to read:

9 1465.8. (a) (1) To ensure and maintain adequate funding for
10 court security, a fee of thirty dollars (\$30) shall be imposed on
11 every conviction for a criminal offense, including a traffic offense,
12 except parking offenses as defined in subdivision (i) of Section
13 1463, involving a violation of a section of the Vehicle Code or
14 any local ordinance adopted pursuant to the Vehicle Code.
15 *Commencing July 1, 2010, and on each July 1 thereafter, the*
16 *Administrative Office of the Courts shall adjust the court security*
17 *fee based on the change in the annual California Consumer Price*
18 *Index for All Urban Consumers, published by the Department of*
19 *Industrial Relations, Division of Labor Statistics, for the most*
20 *recent fiscal year ending on June 30 preceding the adjustment,*
21 *with each adjusted amount rounded to the nearest dollar. The*
22 *Administrative Office of the Courts shall publish the current dollar*
23 *amount of the court security fee on its Internet Web site.*

24 (2) For the purposes of this section, "conviction" includes the
25 dismissal of a traffic violation on the condition that the defendant
26 attend a court-ordered traffic violator school, as authorized by
27 Sections 41501 and 42005 of the Vehicle Code. This security fee
28 shall be deposited in accordance with subdivision (d), and may
29 not be included with the fee calculated and distributed pursuant to
30 Section 42007 of the Vehicle Code.

31 (b) This fee shall be in addition to the state penalty assessed
32 pursuant to Section 1464 and may not be included in the base fine
33 to calculate the state penalty assessment as specified in subdivision
34 (a) of Section 1464. The penalties authorized by Chapter 12
35 (commencing with Section 76000) of Title 8 of the Government
36 Code, and the state surcharge authorized by Section 1465.7, do
37 not apply to this fee.

38 (c) ~~When~~ *If* bail is deposited for an offense to which this section
39 applies, and for which a court appearance is not necessary, the

1 person making the deposit *also* shall ~~also~~ deposit a sufficient
2 amount to include the fee prescribed by this section.

3 (d) Notwithstanding any other ~~provision of~~ law, the fees
4 collected pursuant to subdivision (a) shall all be deposited in a
5 special account in the county treasury and transmitted therefrom
6 monthly to the Controller for deposit in *a separate account of* the
7 Trial Court Trust Fund *for the sole purpose of funding sheriffs and*
8 *marshals for superior court security*.

9 (e) The Judicial Council shall provide for the administration of
10 this section.

11 (f) This section shall remain in effect only until July 1, ~~2011~~
12 *2016*, and as of that date is repealed, unless a later enacted statute,
13 that is enacted before July 1, ~~2011~~ *2016*, deletes or extends that
14 date.

15 SEC. 5. Section 1465.8 of the Penal Code, as added by Section
16 30 of Chapter 22 of the 4th Extraordinary Session of the Statutes
17 of 2009, is amended to read:

18 1465.8. (a) (1) To ensure and maintain adequate funding for
19 court security, a fee of twenty dollars (\$20) shall be imposed on
20 every conviction for a criminal offense, including a traffic offense,
21 except parking offenses as defined in subdivision (i) of Section
22 1463, involving a violation of a section of the Vehicle Code or
23 any local ordinance adopted pursuant to the Vehicle Code.

24 (2) For the purposes of this section, "conviction" includes the
25 dismissal of a traffic violation on the condition that the defendant
26 attend a court-ordered traffic violator school, as authorized by
27 Sections 41501 and 42005 of the Vehicle Code. This security fee
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4 collected pursuant to subdivision (a) shall all be deposited in a
5 special account in the county treasury and transmitted therefrom
6 monthly to the Controller for deposit in *a separate account of* the
7 Trial Court Trust Fund *for the sole purpose of funding sheriffs and*
8 *marshals for superior court security*.

9 (e) The Judicial Council shall provide for the administration of
10 this section.

11 (f) This section shall become operative on July 1, ~~2011~~ 2016.